

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
SPARTANBURG DIVISION

United States of America	)	Cr. No. 7:05-1003-HMH
	)	
vs.	)	
	)	<b>OPINION &amp; ORDER</b>
Eric Straite,	)	
	)	
Defendant.	)	

This matter is before the court for consideration of whether the Defendant is entitled to a reduction in his sentence pursuant to Amendment 706 to the United States Sentencing Guidelines (“U.S.S.G.”), effective November 1, 2007, and deemed retroactive March 3, 2008. U.S.S.G. App. C. Amend. 706 (Nov. 1, 2007).

The court has reviewed the record in this case including the Defendant’s Presentence Investigation Report. Based on this review, the court has determined that the Defendant is not eligible for a reduction in his sentence pursuant to 18 U.S.C. § 3582(a) because no crack cocaine was involved in calculating the guidelines. Based on the foregoing, the Defendant’s pro se motion for a reduction of his sentence pursuant to 18 U.S.C. § 3582(c)(2) based on Amendment 706 is denied. The Defendant’s pro se motion for appointment of counsel is also denied.

**IT IS SO ORDERED.**

s/Henry M. Herlong, Jr.  
United States District Judge

Greenville, South Carolina  
July 28, 2008

**NOTICE OF RIGHT TO APPEAL**

Movant is hereby notified that he has the right to appeal this order within ten (10) days from the date hereof, pursuant to Rule 4 of the Federal Rules of Appellate Procedure.